RETIREMENT RELIEF AND CAPITAL GAINS TAX

This Help Sheet will help you decide if you are entitled to retirement relief. It is only a simple guide and does not cover all cases. You can get help from your tax adviser. Your Inland Revenue office will also be pleased to help. You can also ask to see the Inland Revenue Capital Gains Manual.

WHO CAN GET RELIEF?

Retirement relief is available to individuals and some trustees, but not to companies. See page 4 for further details of the qualifying conditions for trustees.

INDIVIDUALS

If you are entitled to the maximum amount of relief:

- the first £200,000 of qualifying gains will be exempt in full, **and**
- half of the next £600,000 of qualifying gains will also be exempt.

If the gain exceeds £800,000, the excess will be taxable in the normal way.

The calculation of the relief is described in more detail on page 5.

You can get relief if you retire at age 50 or more, or if ill-health forces you to retire below that age.

If you qualify for relief and were over 50 when you retired, give details in column G on Page CG2 of the Capital Gains Pages next to the relevant disposal. Please write 'retirement relief' in this column.

If you qualify for relief on ill-health grounds, you must make a claim to relief by the 31 January that is 1 year 10 months from the end of the tax year in which you made the relevant disposal. So for 1999-2000 you must claim by 31 January 2002. You can do this by giving details in column G on Page CG2 of the Capital Gains Pages next to the relevant disposal. Write 'ill-health retirement relief' in this column.

ILL-HEALTH CLAIMS

If you are below 50 you may still be able to claim relief if you have to give up work because of your ill-health and it is unlikely that you will ever be able to go back to similar work in future. If you are claiming relief on ill-health grounds ask the Orderline now for form CG85.

Complete pages 1 and 2 of form CG85, following the notes on that form. Then send the form to your GP or other medical practitioner who you want to make a report on your health. The medical practitioner should complete pages 3 and 4 of the report on form CG85 and then send off the form to the address on page 4.

The Inland Revenue's medical adviser will examine the claim and may ask you to attend an examination to get more details from you. The medical adviser will then advise the Inland Revenue on whether you meet the medical conditions for relief.

WHAT CAN I GET RELIEF ON?

To get retirement relief you have to meet the relevant qualifying conditions throughout a period of at least one year. This period is called the qualifying period. It ends (in most cases) on the date when you disposed of the asset for which you want relief, or the date when the business ceased, if that was earlier.

The relevant qualifying conditions are described below. If you meet the conditions you can get relief on the disposal of:

- the whole or part of your business, whether you carried on the business in partnership or on your own. 'Business' does not include the letting of property unless this amounts to a trade, or the business is furnished holiday lettings

  This relief is given on all business assets such as goodwill and business premises. But it is not available for disposals of shares, securities or other investments held in the business

- assets that had been in use for your business and which you disposed of within the 'permitted period' (see below) after the business ceased. 'Business' does not include the letting of property unless this amounts to a trade, or the business is furnished holiday lettings

- shares in, or securities of, your 'personal company' (see below). The shares must be disposed of while the company is trading or within the 'permitted period' (see below) after the trade has ceased

- assets that you used in an office or employment which was your full-time job

  This relief is not available if you are an officer or employee of your personal company, or of a company in a group held by your personal company. But you may get relief on disposals of assets which are 'associated with' a disposal of shares in your personal company. See page 2

- assets used in a business carried on either by you in partnership, or by your personal company for which you work full-time.

The 'permitted period' means a period of one year, or any longer time that the Inland Revenue allows. In practice, a period of up to three years will usually be allowed provided the asset or, in the case of a company, any chargeable business asset held by it at the date trading ceased, is not used or leased for any purpose after the initial one year period.

Your 'personal company' is a company in which you can exercise at least 5% of the voting rights.

If the disposal is by trustees, there are other qualifying conditions to be met (see page 4).

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QUALIFYING CONDITIONS

To get relief you have to satisfy a number of conditions throughout a period of at least one year. This is the 'qualifying period'. It usually ends on the date of disposal. If the business or employment has already ceased by the time the disposal is made, the qualifying period usually ends on the date of cessation.

The amount of relief depends on the length of the qualifying period.

The qualifying conditions depend on the type of disposal you have made.

— Disposal of the whole or part of your business

There is only one condition to be satisfied in the qualifying period. You must own the business either:

- directly, **or**
- as a member of a partnership, **or**
- through a trading company which is your 'personal company', **or**
- through a company that is a member of a trading group, whose holding company is your 'personal company'.

If the business is owned through a company, you must be a full-time working officer or employee of that company (or of one or more members of the group).

At the date of disposal you must also either be aged 50 or more or be retiring because of ill-health (see 'Ill-health claims' on page 1).

— Disposal of your assets following the cessation of a business

The conditions are similar to those set out in the previous paragraph. But in this case the qualifying period ends on the date the business ceased rather than the date when the asset is disposed of. The date of cessation must be within the permitted period before the date of disposal.

If the asset in question was owned by you personally, but in use by a partnership at the time business ceased, you cannot get relief under this provision. But you may be entitled to relief as an 'associated disposal'. See the next column.

At the date the business ceased you must also either be aged 50 or more or be retiring because of ill-health (see 'Ill-health claims' on page 1).

— Disposal of shares or securities in your personal company

Throughout the qualifying period the company must be:

- your personal company, **and**
- either a trading company, **or**
- the holding company of a trading group.

You must be a full-time working officer or employee of that company (or one or more of the members of the group) throughout the same period. But see also page 5, 'Partial retirement'.

Periods when the company's (or group's) business was owned by you (on your own or in partnership) can also be taken into account.

The qualifying period ends on the date of disposal of the shares, unless the company (or group) ceased to trade within the permitted period before the disposal. If so, it ends on the date of cessation.

You must also either be aged 50 or more or be retiring because of ill-health (see 'Ill-health claims' on page 1) at the date of disposal of the shares or the date the business ceased, if that is earlier.

If the company (or group) has investments as well as business assets, the amount of the gain eligible for relief may be restricted. See page 3.

— Disposal of your assets used in your office or employment

Your office or employment must be your full-time occupation throughout the qualifying period. If your office or employment ceases within the permitted period before the disposal, the qualifying period runs up to the date of cessation.

You must also either be aged 50 or more or be retiring because of ill-health (see 'Ill-health claims' on page 1) at the date of disposal or the date your office or employment ceased, if this is earlier.

This relief is not available if you are an officer or employee of your personal company, or of a company in a group held by your personal company. But you may get relief on disposals of assets 'associated with' a disposal of shares in your personal company. See the paragraph below.

— 'Associated disposal' of your assets used in a business carried on either by you in partnership, or by your personal company (or group)

Your disposal must take place in association with a withdrawal (or partial withdrawal) from a business carried on either by you in partnership or by your personal company (or a member of your personal trading group). A 'withdrawal' is a disposal of your interest in the partnership or of your shares in the company. The asset sold must have been in use in the business immediately before the 'withdrawal' (or when the business ceased, if that is earlier).

In cases where:

- the asset was in business use for only part of the time you owned it, **or**
- you were concerned in the carrying on of the business for only part of the period during which the asset was in business use, **or**
- for at least some of the period during which the asset was in business use, you received some form of rent for it

only a just and reasonable proportion of the gain will qualify for relief. The periods involved and the level of any rent paid, should be taken into account when working out this proportion. See Example 1 in the next column.

DISPOSALS OF SHARES - HOW MUCH OF THE GAINS QUALIFY FOR RELIEF?

There are special rules for working out the relief on the disposal of shares and securities. These are designed to ensure that relief is not given for assets held as investments.

Disposal of shares in a personal trading company

If you sell shares in your personal trading company, only a proportion may qualify for the relief. This is worked out by dividing the value of the company's 'chargeable business assets' (see page 4) by the value of its total chargeable assets. If the company has no chargeable assets, the relief is not restricted.

Example 1

Mary Grant has held a one-third share in a trading partnership since 6 April 83. In April 1988 she acquired a freehold shop, which was then let to the partnership and used by it for its trade.
On 1 April 2000, at the age of 60, Mary Grant retires from the partnership and sells the shop to the remaining partners, making a gain of £90,000.

Part of the gain (the 'investment part') must be excluded from the gains qualifying for relief. That is worked out as follows:

1. If no rent was paid, none of the gain is treated as the investment part. So the whole £90,000 will qualify for relief.
2. If the partnership paid a full market rent throughout the period of ownership, part of the asset is treated as if it was rented by the other two partners and so is an investment. $^2/_3$ of the gain does not qualify for relief.

So $^1/_3$ of the gain qualifies - $^1/_3$ x £90,000 = £30,000.

3. If the partnership paid a rent of £3,000 a year and the average market rent was £12,000 (in other words, they paid $^1/_4$ of the market rent), then only $^1/_4$ of the part rented by the other two partners is treated as an investment.

The amount which does not qualify is $^1/_4$ of the $^2/_3$ part rented by Mary Grant's partners (that is, $^1/_6$).

So $^5/_6$ of the gain qualifies - $^5/_6$ x £90,000 = £75,000.

Example 2

In October 1999 Carol Brown, aged 56, sells a 40% holding in her personal trading company for £520,000. The chargeable gain is £400,000.

At the date of disposal the company's assets and their market values are as follows:

	Assets	Chargeable assets	Chargeable business assets
Factory and offices	£150,000	£150,000	£150,000
Goodwill	£200,000	£200,000	£200,000
Plant and machinery	£50,000	*£10,000	£10,000
Investments	£140,000	£140,000	—
Stock	£50,000	—	—
Cash	£10,000	—	—
Debtors	£40,000	—	—
Totals	£640,000	£500,000	£360,000

* Note: The plant and machinery consists mainly of small items and only one, worth £10,000, exceeds in value the exemption limit for chattels (see *Help Sheet IR293*).

The part of the gain qualifying for retirement relief is:

$$\frac{\text{Chargeable business assets}}{\text{Chargeable assets}} = \frac{£360,000}{£500,000}$$

So retirement relief is available on gains of:

$$£400,000 \times \frac{£360,000}{£500,000} = £288,000$$

If the company in this example had only stock, cash, debtors, and small items of plant, there would have been no chargeable assets. So there would not have been any restriction and relief would be available on the total gains of £400,000.

Chargeable business assets are assets used for trade carried on by the personal company. They include goodwill but exclude shares, securities and any other investments and any assets that are exempt from Capital Gains Tax. **Chargeable assets** are all assets, including investments, that are not exempt from Capital Gains Tax.

Disposal of shares in the personal holding company of a trading group

Again, only a part of the gain qualifies for relief. In this case it is worked out by dividing the value of the group's chargeable business assets by its total chargeable assets.

There are extra rules for dealing with the interests of group companies in other members of the group. Ask your Inland Revenue office or tax adviser for details.

TRUSTEES

Retirement relief may be available to trustees who dispose of trust property that consists of either:

- shares or securities in a beneficiary's personal trading company or group, **or**
- assets used in a beneficiary's business.

The relief will only be available if there is a beneficiary with a life or absolute interest in possession under the trust, who satisfied the necessary conditions in the qualifying period.

'Permitted period' in the paragraphs below means a period of one year, or any longer time the Inland Revenue allows. In practice, a period of up to three years will usually be allowed provided the asset or, in the case of a disposal of shares, any chargeable business asset held by the company, is not used or leased for any purpose after the intial one year period.

Disposal of shares in a company

The following conditions must be satisfied:

- the company must have been the beneficiary's personal trading company (or holding company of a trading group) for at least one year ending on the date of disposal, or within the permitted period before that date, **and**
- the beneficiary must have
  - been a full-time working officer or employee of the company (or group) throughout the same period, **and**
  - ceased to have been a full-time working officer or employee at the date of the trustees' disposal, or within the permitted period before that date, **and**
  - reached the age of 50, or retired on ill-health grounds, at the date of cessation.

Disposal of assets

The following conditions must be satisfied:

- the asset must have been used in the beneficiary's business for at least one year, **and**
- the beneficiary must have
  - ceased to carry on the business at the date of the trustees' disposal, or within the permitted period before that date, **and**
  - reached the age of 50, or have retired on ill-health grounds below that age, at the date of cessation.

Other information about trusts

If there are other beneficiaries of the trust who have interests in possession, only a part of the gain will qualify for relief. This part is the proportion which the beneficiary's interest in the income of the settled property bears to the interests in that income of all the other beneficiaries with interests in possession at the date the qualifying period ends.

Example 3

Richard Green has a life interest in a settlement that owns a farm. But there are other beneficiaries. Richard is entitled to only 25% of the income arising from the farm land.

He began farming the land owned by the settlement on 6 April 1988. He ceases to farm the land on 5 April 2000 at age 50. On that day the trustees sell the land for £500,000, giving rise to gains of £320,000. The trustees and Mr Green jointly claim relief.

The gains eligible for relief are restricted to £80,000, because Richard was entitled to only 25% of the income from the farm land - £320,000 x 25% = £80,000.

The trustees and beneficiary must jointly claim relief on the trustees' disposal. Claims must be made to the Inland Revenue office by the 31 January that is 1 year 10 months from the end of the tax year in which the trustees' disposal took place. So for 1999-2000 the claim must be made by 31 January 2002.

If the trustees and the beneficiary make disposals on the same day that both qualify for relief, the relief is given to the beneficiary's disposal in priority to the trustees' disposal. If the beneficiary's gains exhaust the maximum available relief, no relief is given on the trustees' gains.

Relief given to the trustees reduces the beneficiary's lifetime entitlement.

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HOW THE RELIEF IS CALCULATED

If the necessary conditions have been satisfied throughout a period of at least 10 years (the maximum length of the qualifying period) for 1999-2000, gains of up to £500,000 may be exempt from tax as follows:

Full relief on first £200,000	=	£200,000
Plus 50% relief on next £600,000	=	£300,000
Total amount exempt from tax		£500,000

The 50% relief is given on the smaller of:

- the gains eligible for relief (after giving the full relief due), and
- the maximum figure of £800,000.

Example 4

Janet Smith, aged 63, disposes of her business, which she has owned for more than 10 years, on 30 November 1999.

She makes a gain of £700,000.

The relief available is:

Full relief on first £200,000	=	£200,000
Plus 50% relief on £500,000* (£700,000 - £200,000)*	=	£250,000
Total amount of retirement relief available		£450,000

* Note: this figure (£500,000) is less than the maximum figure of £600,000.

If the qualifying period is between one and ten years, the maximum amounts qualifying for full and for 50% relief will be a percentage of £200,000 and £600,000 respectively. For each year of the qualifying period the percentage is 10%. There are smaller percentages for part years.

Example 5

Suppose in Example 4 the qualifying period is exactly $6^1/_2$ years, the maximum relief available is:

Full relief on first £200,000 x 65% ($6^1/_2$ x 10%)	=	£130,000
Plus 50% relief on £390,000* (£600,000 x 65%)	=	£195,000
Total amount of retirement relief available		£325,000

* Note: this maximum figure £390,000 is less than the eligible gains £570,000 (£700,000 - £130,000).

If you have been in business for two or more separate periods and any gap between those periods is less than two years, the periods may be added together to work out the qualifying period. But any part of this extended period that goes back more than 10 years before the date of the latest retirement is disregarded.

Example 6

Alan Jones was born on 1 June 1939. He:

- carried on a trade from 6 April 1973 to 5 April 1992, when he sold his business
- was then unemployed for four years
- began a new trade on 6 April 1996
- finally retires, aged 61, on 5 April 2000.

Disposal at 5 April 1992 - no relief due as Alan Jones is below the qualifying age, which was 55 for disposals between 19 March 1991 and 27 November 1995.

Disposal at 5 April 2000 - the gap between businesses is more than two years so the qualifying period does not include the earlier period of trading. The qualifying period is 4 years (6 April 1996 - 5 April 2000).

The maximum relief is:

Full relief on first £200,000 x 40% (4 x 10%)	=	£80,000
Plus 50% relief on £240,000 (£600,000 x 40%)	=	£120,000
Total amount of retirement relief available		£200,000

Example 7

Anne Robinson's circumstances are the same as those of Alan Jones in Example 6 except that her first trade was carried on from 6 April 1973 to 5 April 1995.

The gap between the two business periods in her case is less than two years so they can be added together.

Disposal at 5 April 1995 - no relief due as Anne is below the qualifying age, which was 55 for disposals between 19 March 1991 and 27 November 1995.

Disposal at 5 April 2000 - the qualifying period runs from 6 April 1990 (that is 10 years before the latest retirement) to 5 April 1995 and from 6 April 1996 to 5 April 2000, a total of nine years.

The maximum relief is:

Full relief on first £200,000 x 90% (9 x 10%)	=	£180,000
Plus 50% relief on £540,000 (£600,000 x 90%)	=	£270,000
Total amount of retirement relief available		£450,000

The maximum relief of £500,000 (including the £200,000 ceiling for full relief) is a lifetime maximum. If you have made more than one disposal qualifying for relief there are rules to make sure that your relief on all the disposals does not exceed the maximum. Ask your Inland Revenue office or tax adviser for advice.

SPECIAL CASES

Partial retirement by an officer or employee

If you are an officer or employee of your personal company, you must normally work full-time up to the date you sell your shares (or until the company's business ceases, if that is earlier) in order to qualify for relief.

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There is an exception to this rule. You may stop working full-time and start to work part-time in the business, without disposing of your shares in the company. You may still get relief when the shares are disposed of later, if:

- you have continued to work as an officer or employee for at least 10 hours a week up to the date of the disposal (or until the company ceased to trade, if that is earlier), **and**
- you satisfied the various other conditions at the date on which you stopped working full-time, **and**
- you continued to satisfy those conditions up to the date of disposal of the shares or the date trading ceased, if that is earlier.

If this special rule applies the qualifying period will end when you cease full-time working.

Husband and wife

A husband and wife are usually treated separately for retirement relief. If the conditions are satisfied, each can have the maximum £500,000 relief.

A special rule may apply if your husband or wife passes to you his or her entire interest in a business or personal company by lifetime gift, or on death, and you were living together in the year the transfer took place.

In working out the relief due when you retire you can choose that the two periods of ownership be added together. This can increase the amount of relief due, by extending the length of the qualifying period.

The relief calculated on this special basis is limited to the amount that would have been available if your husband or wife had continued to carry on the business. It also takes into account any disposals he or she made.

This election has to be made in writing to your Inland Revenue office by the 31 January that is one year 10 months from the end of the tax year in which you made the relevant disposal. So for 1999-2000 you must make the election by 31 January 2002.

Example 8

Edna Jackson died on 30 April 1993, having carried on a business as a sole trader since 6 April 1982. Her husband Bill inherits the business and carries it on until he sells it on 30 April 1999, when he is 55 years old.

If Bill Jackson elects to add the business periods together, the qualifying period is the maximum 10 years (1 May 1989 to 30 April 1999). The maximum relief available will be £500,000.

If he did not elect, the maximum relief available would be worked out on the basis of a qualifying period of six years (1 May 1993 to 30 April 1999).

Full relief on first £200,000 x 60% (6 x 10%)	=	£120,000
Plus 50% relief on £360,000 (£600,000 x 60%)	=	£180,000
Total amount of retirement relief available		£300,000

REORGANISATIONS AND EXCHANGES

Under the Capital Gains Tax rules, if shares in one company are exchanged for shares in another the original shares may, subject to certain conditions, be treated as equivalent to the new holding so that the exchange does not count as a disposal. This means that gains up to the date of exchange will be taxable only when the new shares are disposed of.

If you retire as an officer or employee of your personal company, you may exchange shares in the personal company for shares in another company. If you do this, you may elect that the ordinary rules about exchanges are not applied. Retirement relief may then be given against the gains arising when you dispose of your shares in your personal company.

You must make this election in writing to your Inland Revenue office by the 31 January that is 1 year 10 months from the end of the tax year in which you made the relevant disposal. So for 1999-2000 you must make the election by 31 January 2002.

Capital distributions

Relief is available on disposals of shares or securities, including the receipt of a capital distribution in respect of shares on the liquidation of a company, as long as all the conditions for relief are satisfied.

However, relief will not be available if the capital distribution takes the form of chargeable business assets. If only part of the distribution is a chargeable business asset, the gains eligible for relief will be restricted accordingly.

Page 3 explains that on the sale of shares in your personal trading company, only a part of the gain may qualify for relief. That same rule applies where you receive a capital distribution for your shares.

There is a special rule if a company sells chargeable business assets in the last six months of the qualifying period (see page 2; normally this means the last six months before the company's trade ceases).

You can elect for such assets to be treated as if they had not been sold but retained in business use. The effect of this is to increase the proportion of the gains eligible for relief.

The election must be made in writing to your Inland Revenue office by the 31 January that is 1 year 10 months from the end of the tax year in which you receive the capital distribution. So for 1999-2000 you must make the election by 31 January 2002.

These notes are for guidance only, and reflect the position at the time of writing. They do not affect any rights of appeal.